

Page 137

1 L. FLANAGAN  
 2 A Yes.  
 3 Q To fight for injustices, right?  
 4 A Correct.  
 5 Q That's why people form unions, right?  
 6 A Right.  
 7 Q That's why the people are camping out in  
 8 Wisconsin day and night, right?  
 9 A In the cold.  
 10 Q Right. So if you're talking to,  
 11 quote-unquote, half the people in the hotel  
 12 about the Hispanic guys who got put into the  
 13 service bar, what I can't figure out is how  
 14 that doesn't make its way to the arbitration.  
 15 Can you explain that?  
 16 A I can't.  
 17 Q Do you know if Mr. Cedeneno can?  
 18 A I don't know. I've never discussed it  
 19 with him.  
 20 Q You never discussed anything about  
 21 Mr. Rivera's race with Mr. Cedeneno?  
 22 A No.  
 23 Q Okay. Even if he says differently  
 24 then -- and if he testifies otherwise on  
 25 Monday he'll be a liar?

Page 138

1 L. FLANAGAN  
 2 A Yeah. I never discussed his race. To  
 3 the best of my knowledge, anyway, I didn't.  
 4 Q Did you tell Carlos to go to human  
 5 resources about this complaint about racial  
 6 discrimination?  
 7 A No.  
 8 Q Are you aware that the Plaza Hotel has a  
 9 policy regarding discrimination in the work  
 10 place?  
 11 A Yes.  
 12 Q What is the policy?  
 13 A Basically everybody got to be treated  
 14 the same no matter where you're from or who  
 15 you are.  
 16 Q What happens if you're not?  
 17 A I don't know. Usually, I mean, it  
 18 depends on the offense, but I've never had any  
 19 situation there with somebody -- oh, yes, we  
 20 had a case before where guys in the Oak Room  
 21 filed suit against the hotel for  
 22 discrimination.  
 23 Q Did you talk to them about it?  
 24 A No. Heard what went down.  
 25 Q If somebody called you a name based on

Page 139

1 L. FLANAGAN  
 2 your Irish ethnicity at the Plaza Hotel, what  
 3 would be the course of -- your course of  
 4 action, what would you do?  
 5 A I'd laugh. I mean, it's different for  
 6 different people --  
 7 Q So tell me if somebody said -- they  
 8 offended you in some way, is there a -- what  
 9 I'm trying to figure out is what is your  
 10 knowledge of the policy at the Plaza Hotel if  
 11 somebody who you represent as a union steward  
 12 or union delegate comes up to you and says I  
 13 believe I've been discriminated against  
 14 because of X, Y or Z?  
 15 A There is a hotline number. They have a  
 16 number there, some person, like, that you can  
 17 call. I don't know the number offhand --  
 18 Q Is that what human resources is for, to  
 19 take care of those issues, is that why there's  
 20 a human resources department there?  
 21 A Well, they have another hotline number  
 22 if you don't want to go to human resources.  
 23 Q Did you call the hotline number about  
 24 Mr. Rivera?  
 25 A No.

Page 140

1 L. FLANAGAN  
 2 Q Did you call human resources about  
 3 Mr. Rivera?  
 4 A No.  
 5 Q Did you talk to any human resources or  
 6 any management employee regarding Mr. Rivera's  
 7 seniority?  
 8 A About his seniority, yes.  
 9 Q And even though Mr. Rivera told you he  
 10 believed that his seniority had something to  
 11 do with his race, you never mentioned that to  
 12 any management employee at the hotel?  
 13 A No.  
 14 Q And you never mentioned it to the  
 15 business agent of the union, did you?  
 16 A No.  
 17 Q What did Francesco Marquez say to you  
 18 about Mr. Rivera and the racial  
 19 discrimination?  
 20 (Whereupon, an off-the-record  
 21 discussion was held.)  
 22 (Whereupon, a short break was  
 23 taken.)  
 24 (Whereupon, a portion of the  
 25 record was read back.)

Page 141

L. FLANAGAN

1  
2 A He said to me, look, the two, Carlos and  
3 Evelio, are in the Palm Court in the back bar  
4 and all these new white guys are over here.  
5 Q Is there anything else?  
6 A That's the gist of it.  
7 Q Do you recall when that occurred?  
8 A I don't know the exact date, no.  
9 Q Okay. Would that have been before the  
10 grievance filed?  
11 A Yes.  
12 Q Okay. Before the grievance?  
13 A Yes.  
14 Q You know, before I asked you about all  
15 the other folks on the list, you said to  
16 Mr. Zapata, you testified -- you said everyone  
17 asked the same question, guys we knew for  
18 twenty years, the assumption is because  
19 they're Spanish, and that was the question  
20 about why --  
21 A Why they were in --  
22 Q -- why they were in the back. Who's  
23 assumption was that, is this the seven people  
24 you just listed out for me?  
25 A Yes.

Page 142

L. FLANAGAN

1  
2 Q Was it your assumption?  
3 A Yes.  
4 Q Prior to the hotel reopening and  
5 Mr. Rivera being slotted as a service  
6 bartender, did you have any assumptions about  
7 racial discrimination at the Plaza?  
8 A No.  
9 Q This is the first time?  
10 A Well, we had a case in the Oak Bar.  
11 Q But I want to know about your  
12 assumption?  
13 A My assumption, no.  
14 Q Did you ever hear anybody ever use any  
15 racial slang towards Mr. Rivera?  
16 A No.  
17 Q Did you ever hear anybody use any racial  
18 slang towards anybody at the Plaza Hotel, a  
19 non-customer?  
20 A No.  
21 Q Did you think -- strike that.  
22 What did Aziz Zaidi say to you about  
23 racial discrimination as it related to  
24 Mr. Rivera?  
25 A Same situation, Carlos and Evelio should

Page 143

L. FLANAGAN

1  
2 be over there in the front bar, they have  
3 seniority, they should be over there before  
4 these new guys.  
5 Q What did he say about race?  
6 A He said these new white guys.  
7 Q Aziz said the white guys are in the bar,  
8 where is Mr. Rivera -- something along those  
9 lines?  
10 A Where Evelio and Carlos should be.  
11 Q Okay. Fred the doorman, what did he  
12 say?  
13 A He was -- he just came up to me talking  
14 in passing, just general conversation, and he  
15 said, how come these guys out here, and these  
16 guys with seniority, these Spanish guys in the  
17 Palm Court.  
18 Q So what did you say?  
19 A I says, we went to human resources, said  
20 that's the way it is, they're service  
21 bartenders.  
22 Q So Freddie call them these Hispanic  
23 guys?  
24 A No. He said Spanish guys.  
25 Q Spanish guys. Is Freddie -- do you know

Page 144

L. FLANAGAN

1  
2 what Freddie's ethnic origin is?  
3 A No. He's Hispanic but I don't know what  
4 country.  
5 Q Is he still the doorman there today?  
6 A Yes.  
7 Q What did Jose the doorman say?  
8 A Same conversation as him.  
9 Q Was it the same time as Freddie?  
10 A It wouldn't be the same day, no, but  
11 around the same general time, you know.  
12 Whenever we started opening and everybody saw  
13 the new guys behind the bar and the guys that  
14 had been there for so long back at the Palm  
15 Court.  
16 Q What did Orlando say?  
17 A Orlando -- same thing, he says, how come  
18 these guys have seniority and you have all  
19 these new guys working down at the bar.  
20 Q And Orlando is at the Palm Court, right?  
21 A No. He's --  
22 Q Is at the Oak Bar?  
23 A Oak Bar.  
24 Q What did you say to Orlando?  
25 A I says, I told him what we did, we went

Page 145

1 L. FLANAGAN  
 2 to human resources, the union came in, it had  
 3 to go to arbitration.  
 4 Q And what did Jose say?  
 5 A Jose Arbonna he said the same thing  
 6 basically.  
 7 Q And you said the same thing to him?  
 8 A Yes.  
 9 Q So every time somebody asked you about  
 10 why the Spanish guys were in the Palm Bar, you  
 11 said we're dealing with it, we've filed a  
 12 grievance, we're going to the --  
 13 A Yeah. I went to the union, Eddie Ceden  
 14 came in, and then go from there.  
 15 Q But you weren't -- not saying you were  
 16 being dishonest with them, but you weren't  
 17 really accurate with them because you hadn't  
 18 gone to the union about the fact that these  
 19 were Spanish guys, that Spanish guys were at  
 20 the Palm Court, right?  
 21 A I went to the union -- I told them about  
 22 the seniority rights and trying to get them in  
 23 the front bar position.  
 24 Q But you never -- but again, you never  
 25 mentioned anything about the conversations

Page 146

1 L. FLANAGAN  
 2 with these seven people about this, what you  
 3 called earlier, assumption that they weren't  
 4 placed back at the previous position because  
 5 of their Spanish origin, that never crossed  
 6 your mouth with respect to --  
 7 A Because they initiated a conversation  
 8 that way, they pointed it out to me.  
 9 Q But you never pointed it out to the  
 10 union?  
 11 A No.  
 12 Q Notwithstanding the fact that you had  
 13 all these conversations with these other  
 14 people, right?  
 15 A Correct.  
 16 Q Prior to the arbitration -- well, strike  
 17 that.  
 18 Did you have a lawyer at the  
 19 arbitration, you personally?  
 20 A No.  
 21 Q Who called you as a witness?  
 22 A The union.  
 23 Q Did you meet with Mr. Ceden prior to  
 24 your testimony at the arbitration?  
 25 A No. When I just got there, met him that

Page 147

1 L. FLANAGAN  
 2 morning.  
 3 Q Did he prepare you at all for the  
 4 arbitration proceeding?  
 5 A No.  
 6 Q Did he go over your testimony with you?  
 7 A No.  
 8 Q Did anybody?  
 9 A No.  
 10 Q Did you stay for the entire arbitration?  
 11 A No. I testified and I left. I had to  
 12 go to work.  
 13 Q But you said you heard Mr. Rajan Lai --  
 14 A Rajan Lai -- the way it works is, I  
 15 couldn't be in the same room while the two  
 16 bartenders were testifying. I had to be  
 17 outside.  
 18 Q Okay. So while Evelio and --  
 19 A And Carlos.  
 20 Q -- Carlos were testifying, you were  
 21 outside?  
 22 A I was outside.  
 23 Q But anybody else you could be inside?  
 24 A I believe so, yes. I was there when  
 25 Rajan was talking because he -- they asked him

Page 148

1 L. FLANAGAN  
 2 questions and then they asked me, so we were  
 3 kind of at the same time.  
 4 Q Did you hear all of Mr. Lai's testimony  
 5 from beginning to end?  
 6 A No.  
 7 Q You just came in -- a portion of it?  
 8 A Yeah.  
 9 Q How many times did you have  
 10 conversations with Mr. Rivera about his belief  
 11 that -- or the assumption that he was placed  
 12 in the Palm Court because he was Hispanic?  
 13 A I can't tell. I mean, I don't know. A  
 14 few times.  
 15 Q More than once?  
 16 A Yes.  
 17 Q More than twice?  
 18 A Yes.  
 19 Q More than five times?  
 20 A I can't -- could be, I'm not sure.  
 21 Q Where -- when he would have these  
 22 conversations with you, where were you  
 23 physically?  
 24 A I would be talking in the cafeteria at  
 25 work, could be in the locker room.

Page 149

L. FLANAGAN

Q And these conversations all occurred prior to the arbitration?

A And after the arbitration.

Q Okay. So if you could, were there more of these conversations before the arbitration or after the arbitration?

A I can't tell.

Q But the first time he talked to you about of lawsuit was after the arbitration?

A Yes.

Q Have you ever seen Mr. Rivera cry?

A No.

Q Where is the -- strike that.

You testified earlier that there was a period of time when you were recalled prior to the Champagne Bar opening first, I believe, in March 1st --

A Correct.

Q -- and then the -- followed by the Rose Club on April -- somewhere in April?

A Yeah.

Q And for the period of time before the Champagne Bar opened, you were getting paid for a regular workweek, correct?

Page 150

L. FLANAGAN

A Correct.

Q You weren't making any drinks for customers, correct?

A Correct.

Q You weren't really making any drinks for --

A The building wasn't open yet.

Q So you were working and getting paid --

A Hourly wage.

Q -- an hourly wage just waiting till the bar opened up?

A Correct.

Q And doing kind of make work things, you know what I mean?

A What we do, we were training, mock training with the servers, you know, the server -- we sit down and pretend we're the guest and they be the servers.

Q And did the servers do that for the bartenders, pretend that they were customers with a drink?

A No, we didn't have a bar. You see, the bar was being constructed.

Q So there was no physical place to

Page 151

L. FLANAGAN

actually do that?

A Yeah.

Q And was that true of all the people that were recalled -- all the bartenders who were recalled before the bars opened up you were helping the servers with their training and doing, quote-unquote, make work?

A Yes.

Q Everybody was getting paid but nobody was making any drinks, right?

A Correct.

Q Is it true of Mr. Rivera?

A Yes.

Q Okay. Then the Champagne Bar opens on March 1st, right?

A Correct.

Q And who works at the Champagne Bar when it was opened March 1st, who were the bar persons?

A I know I was off because Saturday is my day off. What we did in the first few weeks, because we were still hiring staff, the bartenders got, we call it combination job, we would wait the tables and do the bar as well.

Page 152

L. FLANAGAN

So it was a mixture it -- would have been -- let me look at the list. It would have been Robert Kenyon, Scott Teague, Eric Smades. MR. ZAPATA: What was the last one?

THE WITNESS: Eric Smades.

Q Those were bartenders who were also waiting on tables?

A Yes.

Q Because there wasn't enough bar space, if you will?

A What we would do, we were short of servers and -- yeah, there wasn't enough -- you know, say the bar is a one-man station but you had to have three people working till the Rose Club opened --

Q Right. So all the bartenders who were going to work either the Champagne Bar or the Rose Club were back to work in February --

A Yes.

Q -- correct? In '08. The Champagne Bar opens in --

A March 1st.

Q -- March 1st and operates for a month or



Page 153

1 L. FLANAGAN  
 2 so before the Rose Club Opens --  
 3 A Correct.  
 4 Q -- right? So you have all the  
 5 bartenders for these two bars, but part of the  
 6 time no bars are open, right, part of the time  
 7 only one bar is open and then finally full  
 8 operation sometime in April, correct?  
 9 A Correct.  
 10 Q Okay. So the bartenders are all back  
 11 but they need something to do, right?  
 12 A Correct.  
 13 Q And so one of the things they did was  
 14 during the preopening help servers with  
 15 training, correct?  
 16 A Correct.  
 17 Q Once the Champagne Bar opened, they  
 18 would either work the Champagne Bar or the  
 19 excess guys would go and work --  
 20 A On the floor.  
 21 Q -- as servers, on the floor, and then I  
 22 take it once the Rose Club opened all the  
 23 bartenders had normal shifts?  
 24 A Yes.  
 25 Q With just bartending duties?

Page 154

1 L. FLANAGAN  
 2 A Correct.  
 3 Q What was Mr. Rivera doing in February?  
 4 A In February, he training with us in the  
 5 Champagne Bar and Rose Club.  
 6 Q Doing the same exact things you were  
 7 doing?  
 8 A Yes. Prior to opening.  
 9 Q Prior to opening -- prior to March 1st,  
 10 between his recall -- which I think we saw a  
 11 list with his recall date on it -- according  
 12 to Exhibit P4, you were recalled on  
 13 February 4, 2008; does that sound right?  
 14 A Yes.  
 15 Q And according to that same document  
 16 Mr. Rivera was brought in a week later on  
 17 February 11, 2008?  
 18 A Sounds correct.  
 19 Q So for the month of February, is it your  
 20 testimony that Mr. Rivera was doing  
 21 essentially the same things you were doing?  
 22 A Correct.  
 23 Q And this was being done while  
 24 construction was continuing on the bars?  
 25 A Yes.

Page 155

1 L. FLANAGAN  
 2 Q Come March 1st when the Champagne Bar  
 3 opened, you were then either tending bar or  
 4 working on the floor?  
 5 A Yes.  
 6 Q What was Mr. Rivera doing?  
 7 A I would say he was back -- I'm not sure,  
 8 but I think he was back in the Palm Court, I  
 9 think.  
 10 Q And what was the Palm Court doing in  
 11 March of '08?  
 12 A It was opened for lunch, tea and dinner.  
 13 Q And is it opened for lunch, tea and  
 14 dinner as we speak?  
 15 A Closed for dinner. It's open daytime,  
 16 breakfast and tea.  
 17 Q And what do bartenders at the Palm Court  
 18 do?  
 19 A They're service bartenders. The bar is  
 20 in the back by the pantry, so the waiters come  
 21 to them and they make drinks for them.  
 22 Q Is the bar in the pantry?  
 23 A Yes.  
 24 Q And how big is the pantry?  
 25 A Probably the size of this room.

Page 156

1 L. FLANAGAN  
 2 Q This conference room we're at here on  
 3 the 11th floor at 120 Broadway. And in that  
 4 space -- which is not insignificant -- there  
 5 is a liquor cabinet?  
 6 A In that space there is a service bar. I  
 7 would say it would be see this -- the length  
 8 of this (indicating).  
 9 Q The length of the side board?  
 10 A Cabinet or whatever you call did. A  
 11 little shorter.  
 12 (Whereupon, an off-the-record  
 13 conversation was held.)  
 14 Q Okay. So we'll call that -- refer to it  
 15 as a credenza. And you said it's not quite as  
 16 long as this credenza?  
 17 A I would say it's as far as this white  
 18 light or whatever it is.  
 19 Q So I measured that with my -- exactly  
 20 one foot -- inch foot -- about eight feet;  
 21 would you agree with that?  
 22 A Yeah.  
 23 Q And would you agree that this room is  
 24 approximately twenty-four feet wide -- does  
 25 that sound plausible to you?

Page 157

L. FLANAGAN

1 A It's probably a bit -- a little narrower  
 2 than this room.  
 3 Q And so in the pantry, that you called  
 4 it, at the Palm Court there's a service bar  
 5 about eight feet long -- what else is in the  
 6 pantry?  
 7 A If you go into the front of the bar, and  
 8 then at the back there's refrigerators for  
 9 beer, wine, a glass machine for washing  
 10 glasses. And at the front you have all racks  
 11 with different types of glasses where you keep  
 12 the teas for the afternoon tea -- like a  
 13 storage space as well.  
 14 Q And that's where -- so for typical tea  
 15 service, how many bartenders would be at the  
 16 service bar?  
 17 A One.  
 18 Q And for typical lunch service?  
 19 A One. It's a one-man station.  
 20 Q So in that room there's one bartender --  
 21 who else is in the pantry doing service?  
 22 A Doing service, we'd have the stewarding  
 23 guy come in, he would be the guy who'd take  
 24 out all the pots and the dirty glasses and  
 25

Page 158

L. FLANAGAN

1 stuff.  
 2 Q So he's in and out?  
 3 A In and out. And the servers as well.  
 4 Q And they're in and out?  
 5 A Yes.  
 6 Q But the only person permanently  
 7 stationed in the pantry is the bartender?  
 8 A Yes.  
 9 Q Have you ever -- have you ever worked in  
 10 the pantry?  
 11 A Yes.  
 12 Q Is it horrible to work in the pantry?  
 13 A Yes.  
 14 Q How come?  
 15 A It's hot. It's a tight space. It's,  
 16 you know, hard to work. Plus, you know,  
 17 you're doing the -- they have the -- you're  
 18 doing the hot water for the tea, you know, and  
 19 you know, it's very busy so you're burning  
 20 yourself sometimes with the teapots.  
 21 Q But you said it's tight, and there's  
 22 five of us in this room which is about the  
 23 same size -- do you feel tight in this room?  
 24 A No, but I mean, in the room you've got  
 25

Page 159

L. FLANAGAN

1 to understand that there's a lot of racks of  
 2 glasses around you and other supplies.  
 3 Q So it's a different space than behind  
 4 the bar?  
 5 A Yes.  
 6 Q Now, when -- in February, when you came  
 7 back with Mr. Rivera, you were both making  
 8 your regular hourly rate for the hours you  
 9 work, correct?  
 10 A Correct.  
 11 Q And then when you went to -- when the  
 12 Champagne Bar opened up on March 1st, how was  
 13 your hourly -- how was your hourly rate  
 14 affected?  
 15 A It wasn't. It was the same.  
 16 Q It was the same. But you were getting  
 17 tips, right?  
 18 A Yes.  
 19 Q Were you getting tips from the time that  
 20 you were helping the servers?  
 21 A When we opened you're talking about,  
 22 right?  
 23 Q Right. When the Champagne Bar opened on  
 24 March 1st --  
 25

Page 160

L. FLANAGAN

1 A What happened was, say this is the  
 2 Champagne Bar, the bartenders, because we  
 3 didn't have enough servers, we took the first  
 4 four tables closest to the bar, so we served  
 5 them ourselves.  
 6 Q And you got the tips for that?  
 7 A Correct.  
 8 Q Okay. And Mr. Rivera at the time was  
 9 working where?  
 10 A The Palm Court.  
 11 Q Palm Court -- and there would be no tips  
 12 at the Palm Court?  
 13 A No.  
 14 Q But if you were a bartender at the Palm  
 15 Court your hourly rate absent tips would the  
 16 same whether you were --  
 17 A Yes, the same.  
 18 Q Because of your seniority, correct?  
 19 A Correct.  
 20 Q So the only difference between the Palm  
 21 Court and then the Champagne Bar and the Rose  
 22 Club was the division of the tips?  
 23 A Yes -- also the procedure, working the  
 24 front bar, talking to people and meeting  
 25

Page 161

1 L. FLANAGAN  
 2 people. But yeah, monetary, it would be the  
 3 tips, yeah.  
 4 Q Not many customers coming into the  
 5 service bar at the Palm Court?  
 6 A No, no.  
 7 Q So you don't have to pretend to be nice,  
 8 right?  
 9 A No, we don't service.  
 10 Q How long did you work in the pantry?  
 11 A When it reopened?  
 12 Q Well, at any time.  
 13 A Well, when it -- when I started working  
 14 the hotel first I was a service bartender for  
 15 over a year.  
 16 Q You worked in the pantry?  
 17 A In the service -- not the Palm Court --  
 18 the room service.  
 19 Q Is the set up for the service bartenders  
 20 for room service greatly -- vastly different  
 21 from the conditions --  
 22 A Well, it's eliminated -- it's eliminated  
 23 now, the service bar from the old hotel. It's  
 24 no such thing anymore. But it was a huge bar,  
 25 it was like a wine cellar.

Page 162

1 L. FLANAGAN  
 2 Q At the old service bar?  
 3 A Yeah. Because, you know, we had an  
 4 eight hundred room hotel, so -- so there was a  
 5 lot of stuff we had in there, a lot of space.  
 6 It's a nice bar. It was boring at night, you  
 7 know, sitting there and waiting.  
 8 Q Were you ever assigned to work the  
 9 service bar at the Palm Court?  
 10 A Yes.  
 11 Q When?  
 12 A When I started working, that would be  
 13 '88 or '89. You know, my station was room  
 14 service. With Palm Court, if somebody's out  
 15 sick or -- I would come in and do it.  
 16 Q You would fill in?  
 17 A But that's a different bar as well now  
 18 because the space has changed.  
 19 Q Right. But just talking about -- so  
 20 since the reopening you haven't worked at  
 21 the --  
 22 A I have.  
 23 Q -- Palm Court service? You have?  
 24 A If call me at home, someone call sick,  
 25 you know, would you mind coming in and doing

Page 163

1 L. FLANAGAN  
 2 afternoon tea a few hours earlier, that kind  
 3 of a deal.  
 4 Q Have you ever said no?  
 5 A Yes.  
 6 Q Because why?  
 7 A I been in the middle of doing something  
 8 or something.  
 9 Q Other commitments?  
 10 A Yeah.  
 11 Q But if you had the time and you needed  
 12 the extra money, you would --  
 13 A Nine times out of ten, yeah, I would.  
 14 Q Did you ever see Mr. Rivera wearing a  
 15 wet towel on his head?  
 16 A No.  
 17 Q No?  
 18 A No.  
 19 Q Did Mr. Rivera ever tell you that he  
 20 felt like he was going to faint while he was  
 21 at work?  
 22 A No.  
 23 Q Do you know Mr. Rivera to be kind of a  
 24 weak guy, kind of a whiner or complainer?  
 25 A No.

Page 164

1 L. FLANAGAN  
 2 Q Did you ever know Mr. Rivera not to be  
 3 able to take a joke or --  
 4 A Not in my presence, no.  
 5 Q Is he unable to defend himself as far as  
 6 you know?  
 7 A I don't think so. I mean, I've never  
 8 seen where he had to defend himself.  
 9 Q Would the word wimp be a word you think  
 10 of Mr. Rivera?  
 11 A No.  
 12 Q Mr. Rivera ever tell you that he was  
 13 depressed?  
 14 A He didn't use the word depressed, but he  
 15 said down, yeah.  
 16 Q When did he say he was down?  
 17 A One of our conversations at work in the  
 18 locker room or cafeteria, wherever it was.  
 19 Q Did he say what he was down about?  
 20 A About the situation at work, what  
 21 happened.  
 22 Q Was it before or after the arbitration?  
 23 A Before.  
 24 Q Okay. Did he ever tell you that he was  
 25 down after the arbitration?

Page 165

1 L. FLANAGAN  
 2 A No. Not that I can recall.  
 3 Q Is it your understanding that as a  
 4 result of the arbitration Mr. Rivera was  
 5 placed back as a front bartender?  
 6 A No. Because he was placed back before  
 7 the arbitration.  
 8 Q He was?  
 9 A Yes. Because the Palm Court closed down  
 10 and they were sent over with the seniority  
 11 rights to bump the new guys. So when  
 12 arbitration came along he was already behind  
 13 the front bar.  
 14 Q I see.  
 15 A But before the Palm Court closed, it was  
 16 in process.  
 17 Q Right. So what he needed the  
 18 arbitration for was to get the difference of  
 19 the money between what he earned as a service  
 20 bartender and what he would have earned had he  
 21 been a front bartender from day one?  
 22 A Correct.  
 23 Q And that would have been really from  
 24 March 1st --  
 25 A Yeah, to whenever the case was.

Page 166

1 L. FLANAGAN  
 2 Q -- to whenever he came back to being a  
 3 front bartender at --  
 4 A Correct.  
 5 Q Which was before the arbitration?  
 6 A Yes.  
 7 Q Okay. And is it your understanding that  
 8 he was paid for all that money?  
 9 A Yes.  
 10 Q Which would probably explain why he  
 11 wasn't down or never complained to you about  
 12 being down after the arbitration but did  
 13 before so, correct?  
 14 A I don't know.  
 15 Q Does Mr. Rivera look much larger to you  
 16 now than he did back before the arbitration?  
 17 A He's put on a few pounds, yeah. I  
 18 wouldn't say huge, but he's put on a few  
 19 pounds, yeah.  
 20 Q Did Mr. Rivera ever share to you any of  
 21 his -- whether or not he's seen a psychiatrist  
 22 or psychologist or anything like that?  
 23 A He said he was going to go see somebody.  
 24 Q When did he say that?  
 25 A Sometime after the arbitration.

Page 167

1 L. FLANAGAN  
 2 Q After the arbitration?  
 3 A Yes. I believe, I mean --  
 4 Q Did he tell you anything about why he  
 5 was going to see somebody?  
 6 A Yeah. He said he was, you know -- he  
 7 was feeling down and fed up.  
 8 Q And what -- fed up?  
 9 A Yeah.  
 10 Q Do you know what he's fed up about?  
 11 A About work, about what happened in his  
 12 situation.  
 13 Q But it was all fixed, wasn't it?  
 14 A Well, as far as the monetary system they  
 15 was, but as far as he's concerned, he figures  
 16 he's discriminated against.  
 17 Q Did you think he was discriminated  
 18 against?  
 19 A Yeah, it looked that way to me.  
 20 Q How come?  
 21 A Just because of the fact of, I mean, why  
 22 send me back to the front bar and I have the  
 23 rights and he worked the same amount of time  
 24 and they didn't send him back.  
 25 Q And you thought that was because he was

Page 168

1 L. FLANAGAN  
 2 Hispanic?  
 3 A Yes.  
 4 Q And --  
 5 A I mean, we were never given any -- we  
 6 were never told any other reason. We aren't  
 7 told that reason either but that was the  
 8 assumption of everybody who had been there.  
 9 Q So what was the basis of your  
 10 assumption, why would you assume this  
 11 discriminatory intent or motive in placing  
 12 Mr. Rivera at the Palm Court service bar when  
 13 I think you testified earlier that you never  
 14 heard anybody use any racial epithets or any  
 15 derogatory terms?  
 16 A Because of the outcome of what happened  
 17 with me when I went down to get my spot, my  
 18 rightful place in the Champagne Bar and the  
 19 Rose Club, and they said, yes, go across, and  
 20 Carlos and Evelio never got it. And then we  
 21 started working, everybody on the bartender  
 22 list, they were all white. Everybody said to  
 23 me, what's going on with the, you know -- the  
 24 Spanish guys. I mean, I don't know if it's  
 25 true or not, but that's the assumption. I



Page 169

1 L. FLANAGAN  
 2 mean, that's what it looks like.  
 3 Q What happened to the black guys? Where  
 4 there any black guys?  
 5 (Whereupon, an off-the-record  
 6 discussion was held.)  
 7 (Whereupon, a short break was  
 8 taken.)  
 9 Q I'm sorry -- there were no black guys at  
 10 the bar?  
 11 A Yeah. Bartenders, no.  
 12 Q And there weren't any before the hotel  
 13 closed, right?  
 14 A Yes, there was.  
 15 Q There was -- what happened to him?  
 16 A Retired.  
 17 Q Okay. So when the hotel reopened in  
 18 April 2008, when everything was -- who were  
 19 the Palm Court service bartenders?  
 20 A It was Carlos and Evelio.  
 21 Q Anybody else?  
 22 A There was a girl, Jamiya. She was  
 23 there a little while.  
 24 Q What was her last name?  
 25 A She's should be on one of the sheets

Page 170

1 L. FLANAGAN  
 2 here.  
 3 Q Is that Westcott?  
 4 A Yes.  
 5 Q Was she Hispanic?  
 6 A I would say African American. She  
 7 was -- started as a server, actually.  
 8 Q Now, when you went -- when you went to  
 9 human resources about your seniority, I think  
 10 you testified earlier that they told you that  
 11 they would look into it, and if you were right  
 12 you would get put back, correct?  
 13 A Uh-huh.  
 14 Q Is that a yes?  
 15 A Yes.  
 16 Q And do you know whether they looked into  
 17 it?  
 18 A Well, I told the manager to the Palm  
 19 Court first and he said he went down to talk  
 20 to the human resources director, and he came  
 21 back up, and he said, if it's correct what you  
 22 said, you will be transferred over. So then I  
 23 went down and talked to Rajan about it, and he  
 24 said, yes, you're going to go to Champagne  
 25 Bar, Rose Club.

Page 171

1 L. FLANAGAN  
 2 Q And that manager was Anthony  
 3 Evangelista?  
 4 A No. His name was Bjorn. He was --  
 5 Q Oh, Bjorn. And Bjorn wasn't there when  
 6 the hotel closed, correct?  
 7 A No.  
 8 Q Okay. But Evangelista was?  
 9 A Yes. He was there prior -- I think, you  
 10 know -- I mean, I can't -- the day we closed  
 11 he probably wasn't there because a lot of  
 12 managers left when they saw the writing on the  
 13 wall, you know, the last few weeks.  
 14 Q Talking about Evangelista?  
 15 A I'm sorry?  
 16 Q You're talking about Evangelista?  
 17 A Yes, yes. The last couple weeks we  
 18 didn't have managers.  
 19 Q Okay. He was out opening up his own  
 20 place downtown. So you spoke to Bjorn?  
 21 A Bjorn.  
 22 Q Was Evangelista there when you spoke to  
 23 Bjorn, I mean, was he back at the hotel?  
 24 A Yes, he was back at the hotel. He would  
 25 have been -- he would have been the Rose Club,

Page 172

1 L. FLANAGAN  
 2 Champagne Bar manager, and Bjorn would have  
 3 been the Palm Court.  
 4 Q Why didn't you just say to Bjorn, go ask  
 5 Anthony, he knows I was here?  
 6 A Actually, I said it to Kareem. Kareem  
 7 was another manager that was there before, and  
 8 he came back as a -- as a sales person. I  
 9 says -- he says, I know you're front bar. He  
 10 never got back to me on it.  
 11 Q So when Kareem didn't get back to talk  
 12 to you, is that when you went to Bjorn?  
 13 A Yes. I probably mentioned it to both of  
 14 them at the same time.  
 15 Q Did you ever it to Evangelista?  
 16 A No.  
 17 Q Why not?  
 18 A Well, I did -- when I -- when I went to  
 19 Bjorn, first I went to human resources, I just  
 20 said it to Anthony that I went to human  
 21 resources about my situation. Like  
 22 technically, we were back a week, and the Palm  
 23 Court manager, he was the first manager there  
 24 so I notified him first.  
 25 Q When you say you were back a week, you

Page 173

1 L. FLANAGAN  
 2 were back a week after the Champagne Club  
 3 opened or after the --  
 4 A No. I was back a week -- I was the only  
 5 bartender in the hotel for the first week.  
 6 Q Right. You were back on February 4th  
 7 and then Mr. Rivera was there February 11th?  
 8 A Correct.  
 9 Q And so -- so during that week you're  
 10 doing nothing?  
 11 A We're doing orientation for two days,  
 12 and then we're doing mock services as well at  
 13 the Palm Court --  
 14 Q But you saw a list somewhere that said  
 15 where you're going to be assigned; is that  
 16 right -- in other words, how did you know you  
 17 were being put as a service bartender?  
 18 A I came back the first week -- just  
 19 seniority in the Palm Court, and then they  
 20 brought in the second wave of people to do  
 21 orientation, and they said these guys are  
 22 going to be in the Rose Club, Champagne Bar,  
 23 and I said I'm supposed to be front bar, and  
 24 it snowballed from there.  
 25 Q So when you first came back, you weren't

Page 174

1 L. FLANAGAN  
 2 scheduled to go back into the Rose Club or the  
 3 Champagne Bar?  
 4 A Correct.  
 5 Q So guys like you -- I think you -- how  
 6 you referred to yourself later, white -- were  
 7 not always -- were not all put out to be in  
 8 the Rose Club or the Champagne Bar?  
 9 A There was nobody back yet. It was only  
 10 me --  
 11 Q I understand that. But you -- but the  
 12 way the assignments were as far as you  
 13 understood it, you were going to be working  
 14 just like Mr. Rivera at the Palm Court service  
 15 bar, right?  
 16 A Correct.  
 17 Q So the three of you, as far as you  
 18 know -- you, Evelio, and Mr. Rivera -- were  
 19 going to the Palm Court, right?  
 20 A Correct.  
 21 Q And then when you had someone look into  
 22 it, somebody said, oops, we made a mistake,  
 23 we'll put you in the Champagne Bar and the  
 24 Rose Club, right?  
 25 A Yes.

Page 175

1 L. FLANAGAN  
 2 Q And then when Mr. Rivera had someone  
 3 look into it, they said, no, you're in the  
 4 right place?  
 5 A Yes.  
 6 Q And somebody got that wrong, right?  
 7 A I believe so, yes.  
 8 Q And in comes the calvary with their  
 9 white hats and their union buttons and they  
 10 kind of make the union take care of it,  
 11 right --  
 12 A Took them a year but they got there.  
 13 Q Well, Mr. Rivera, according to your  
 14 testimony, came back before the arbitration  
 15 even occurred, right?  
 16 A Back to the Rose Club, Champagne Bar?  
 17 Q Yeah.  
 18 A Yeah, because the layoffs and the Palm  
 19 Court closed.  
 20 Q So it took less than a year?  
 21 A But -- yeah, but technically speaking,  
 22 why did they put them back there then in the  
 23 Champagne Bar and the Rose Club if he wasn't a  
 24 front bartender.  
 25 Q Right. And when you went to check on

Page 176

1 L. FLANAGAN  
 2 your issue, somebody apparently checked into  
 3 it and said that's right --  
 4 A Yes.  
 5 Q -- Flanagan is a front bartender, put  
 6 him back?  
 7 A Correct.  
 8 Q They consulted some document or some  
 9 database or some issue, correct?  
 10 A I believe so.  
 11 Q And as far as you know they consulted  
 12 the same database or list when Mr. Rivera  
 13 checked, right?  
 14 A Yes.  
 15 Q I think you said earlier Rajan Lai  
 16 wasn't there when the hotel closed, correct?  
 17 A Correct. But Anthony Evangelista and  
 18 Kareem were there, they could have verified  
 19 with them.  
 20 Q Or they could have verified with their  
 21 union, right?  
 22 A Yes.  
 23 Q The people that entered into the  
 24 agreement, correct?  
 25 A Yes.

Page 177

L. FLANAGAN

Q If the union had the information wrong, as far as Mr. Lai knows they represent the employee, right? Right?

A Yes.

Q I'm sorry if I asked this, but have you talked to Mr. Evangelista about this assumption that Mr. Rivera was placed in the --

A Service bar.

Q -- service bar in the Palm Court, just like you were, because he was Hispanic?

A No. I talked to him about the seniority rights.

Q And when you first learned that you were being put back as a bartender at the service bar at the Palm Court, did you think it was because you were Irish?

A No.

Q Did you think somebody made a mistake?

A When they put me in the Palm Court?

Q Yeah.

A It's a presumption on my part but I think it was strategically done.

Q Why?

Page 178

L. FLANAGAN

A Because basically I think Anthony Evangelista wanted to bring his own people in.

Q So you think this --

A I can't say it's true or not, but that's an assumption.

Q Your assumption is that -- or your belief is that Anthony Evangelista orchestrated this whole thing to get his Gin Room cohorts up to the Plaza Hotel, right?

A For me especially, yes. I never got along with the manager.

Q What's -- what's the name of the steakhouse at the hotel?

A Steak house?

Q What's CPS 1?

A Yeah, that was the old Edwardian Room. It was a private concession, Smith Wollensky ran a steakhouse out of it. Central Park South 1.

Q Is it there a way to get into Central Park South 1 from the hotel?

A You have -- private entrance, you mean?

Q Yes.

A No. You have to come in there.

Page 179

L. FLANAGAN

Q So you have to leave Central Park South 1 to get in -- go outside into the air --

A To access the hotel, yeah.

Q -- to access the hotel. But there was some kind of relationship between Central Park South 1 and the hotel?

A No.

Q Mr. Rivera ever tell you that he thought his seniority issues had something to do with his age?

A No.

Q When you testified at the arbitration hearing you were under oath, correct?

A Correct.

Q Just like you are today, correct?

A Yes.

Q You said earlier when Mr. Zapata was asking you questions that you had worked with Mr. Rivera when he would fill in --

A Yes.

Q -- remember that testimony? What was he filling in for?

A We call it vacation relief.

Q And where was he coming from?

Page 180

L. FLANAGAN

A Like from the service bar. He would work, say, in the Oyster Bar with me, or say somebody in the Oak Bar went on vacation, he work there as well.

Q This is before the hotel closed, right?

A Yeah, long time before.

Q Once Mr. Rivera became a full-time front bartender, did you work with him?

A No.

Q Thank you, Mr. Flanagan. That's all I have. I appreciate it. You can go to work now.

EXAMINATION BY

MR. ZAPATA:

Q Just have a couple questions. When did you first become a delegate?

A When the hotel reopened.

Q And --

A 2008.

Q 2008 -- what month, if you remember?

A When I became a delegate -- so we opened March -- probably be May or June.

Q May or June. When you became a delegate in May or June of 2008, did you receive any

Page 181

L. FLANAGAN

training from the union?

A No.

Q When the hotel reopened in 2008, did you receive any equal employment opportunity training?

A How do you mean?

Q I mean -- I'll restate it. Did you

receive -- when the hotel reopened in two thousand -- withdrawn.

When the hotel opened in 2008, did you receive any training regarding employment discrimination?

A No.

Q Now, in 2008, were there other people at the hotel that could have confirmed for Rajan Lai that Carlos Rivera had worked at the Plaza prior to 2005 as a front bartender?

A Yes.

Q Can you please tell us who?

A On management side it would have been Anthony Evangelista and Kareem, I don't know his last name, he's room service manager, and then any of the servers or waiters that were recalls would have known.

Page 182

L. FLANAGAN

Q If you could ballpark number, people that you believe could have corroborated that Carlos Rivera had worked as a front bartender at the Plaza Hotel prior to 2005?

A I could -- within the food and beverage side of it alone, at least eighteen people.

Q Do you know if Rajan Lai spoke to any of those eighteen people?

A No.

Q How much walking space would you say is inside the pantry where the Palm Court --

A The pantry or the bar -- the whole thing?

Q The bar.

A The bar, yeah, like what I said, there's about eight feet.

Q Walking space, I'm talking about. Just walking. Not, you know, space where there's a fridge --

A Oh, yeah, yeah, yeah. About four.

Q Four feet?

A Four, five feet.

Q Four feet wide, four feet long --

A Less than four feet wide.

Page 183

L. FLANAGAN

Q So less than four feet wide --

A It would be probably six feet long.

Q And about six feet long?

A Yeah.

Q Is there air conditioning in that room?

A There is now.

Q There is now?

A In the beginning there wasn't. For six months we were trying to get it in.

Q And would it get hot back there?

A Yes.

Q Were you involved in representing the union in connection with the grievance that culminated in the arbitration that's referred to in Exhibit P5?

A Yes.

Q You were involved in the presentation of the case?

A No, not the presentation. I was like, I suppose, the number one witness, as you would say, you know, because I was the guy -- the three of us came back together and I was the guy that went to the front bar.

Q So would it be fair to say that your

Page 184

L. FLANAGAN

involvement with the arbitration that's referred to in P5 was simply as a witness?

A Correct.

Q So it's fair to say you were not involved in the strategy or the planning --

A No.

Q I have no further questions.

MR. McLANE: Unfortunately now I have a couple more.

EXAMINATION BY

MR. McLANE:

Q The same eighteen people that could have corroborated that Mr. Rivera was a front bartender could have also have corroborated that you were a front bartender, correct?

A Yes.

Q And yet you chose to go to HR, correct?

A Yes.

Q And the issue with the heat in the pantry, was that an issue you worked on as a union delegate?

A The delegates in the Palm Court did that.

Q So that was an issue that the union took



Page 185

L. FLANAGAN

on behalf of the --

A Yes.

Q And as a result of that, the air conditioning was in place?

A Yeah. There was construction, they were getting things together, you know, putting things away.

Q So the fact that there was no air conditioning in that space had to do with the construction issues?

A I would say so. Or getting people to pay money and put it in.

(page break for jurat)

Page 186

L. FLANAGAN

Q Any indication that the fact that there was no air conditioning in that space had anything to do with anybody -- the race of the people who worked in that space?

A No.

Q That's all I have. Thanks.

MR. ZAPATA: I have no questions. Thank you, Mr. Flanagan.  
(Time noted: 1:54 P.M.)\_\_\_\_\_  
LIAM FLANAGANSigned and subscribed to  
before me, this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.\_\_\_\_\_  
Notary Public

Page 187

## INDEX

WITNESS	EXAMINATION BY	PAGE
LIAM FLANAGAN	MR. ZAPATA	4, 180
LIAM FLANAGAN	MR. McLANE	70, 184

## EXHIBITS

PLAINTIFF'S FOR IDENTIFICATION	DESCRIPTION	PAGE
1	Bartender and bar-back schedule for the Plaza	16
2	Rose Club and Champagne Bar schedule	37
3	Housekeeping department weekly schedule	48
4	Plaza bartender seniority list	56
5	Packet of documents	58

Page 188

## CERTIFICATE

I, LAURA A. PENA, a Notary Public within and for the State of New York, do hereby certify:

THAT LIAM FLANAGAN, the witness whose deposition is heretofore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
LAURA A. PENAERRATA SHEET  
PAGE/LINE CORRECTION

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Exhibit “C”

2 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

3 ----- x

4 CARLOS RIVERA,

5

Plaintiff, Civil Action No.

6

1:10-cv-06661 (WHP)

7

-against-

8 PLAZA ACCESSORY OWNER LP, ELAD PROPERTIES NY LLC,  
CPS 1 REALTY LLP LLC,

9

10 Defendants.

11 ----- x

12

13

14 DEPOSITION of a Non-Party witness,  
15 EDWARD CEDENO, taken by the Respective Parties,  
16 pursuant to Order, held at the offices of Barrister  
17 Reporting Service, 120 Broadway, Suite 1111, New  
18 York, New York 10271, on March 7, 2011, at 10:10  
19 a.m., before a Notary Public of the State of New  
20 York.

21

22 \*\*\*\*\*

BARRISTER REPORTING SERVICE, INC.

23

120 Broadway

New York, N.Y. 10271

24

212-732-8066

25

Page 1

1 2 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

2 3 ----- x

3 4 CARLOS RIVERA,

4 5

Plaintiff, Civil Action No.

5 6 1:10-cv-06661 (WHP)

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17 18 York, New York 10271, on March 7, 2011, at 10:10

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19 20 York.

20 21

21 22 \*\*\*\*\*

BARRISTER REPORTING SERVICE, INC.

22 23 120 Broadway

New York, N.Y. 10271

23 24 212-732-8066

24

25 25

Page 2

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15 16 New York, New York 10271

16 17 BY: BARRY N. SALTZMAN, ESQ.

212-652-3827

17 18

18 19

19 20 ALSO PRESENT: CARLOS RIVERA

20 21

21 22

22 23

23 24

24

25 25

Page 3

1 2 STIPULATIONS

2 3

3 4 IT IS HEREBY STIPULATED AND AGREED by and

4 5 between the attorneys for the respective parties

5 6 herein, that filing, sealing and certification, and

6 7 the same are, hereby waived.

7 8

8 9 IT IS FURTHER STIPULATED AND AGREED that all

9 10 objections except as to the form of the question,

10 11 shall be reserved to the time of the trial.

11 12

12 13 IT IS FURTHER STIPULATED AND AGREED that the

13 14 within deposition may be signed and sworn to by an

14 15 officer authorized to administer an oath, with the

15 16 same force and effect as if signed and sworn to

16 17 before the Court.

17 18

18 19

19 20 xxxxx

20 21

21 22

22 23

23 24

24

25 25

Page 4

1 CEDENO

2 EDWARD CEDENO, having been first duly

3 sworn before a Notary Public of the State of New

4 York, was examined and testified as follows:

5 EXAMINATION BY

6 MR. ZAPATA:

7 Q. What is your name?

8 A. Edward Cedeno.

9 Q. What is your address?

10 A. 709 Eighth Avenue, New York, New York

11 10036.

12 Q. Mr. Cedeno, my name is Fausto Zapata.

13 I'm Carlos Rivera's attorney. I'm

14 representing him in this lawsuit against

15 Plaza Accessory Owner LP, Elad Properties NY

16 LLC, CPS 1 Realty LP LLC, and FHR (NY) LLC,

17 relating to his employment. I brought you

18 here today to answer some questions regarding

19 your interaction with Carlos Rivera and the

20 Plaza.

21 If I ask you any question you don't

22 understand, I'm going to ask you to please

23 stop me and ask me to rephrase it and I will.

24 Are you taking any medication that may

25 affect your ability to participate in this



Page 5

1 CEDENO  
2 deposition?  
3 A. No.  
4 Q. Mr. Cedeno, can you please tell us  
5 where you are currently employed.  
6 A. Local 6.  
7 Q. And what is Local 6?  
8 A. It's the union for the hotels and  
9 motels and clubs.  
10 Q. And in what capacity do you work  
11 there?  
12 A. I'm a vice president/business agent.  
13 Q. How long have you held the position of  
14 vice president/business agent?  
15 A. Nine years now.  
16 Q. Can you describe the duties that you  
17 perform as a vice president/business agent  
18 for Local 6?  
19 A. My duties range from contract  
20 negotiations, grievance handling and  
21 supervision of the other business agents.  
22 Q. How many business agents do you  
23 currently supervise?  
24 A. Three.  
25 Q. Can you please tell us if you have

Page 6

1 CEDENO  
2 held any other positions other than the  
3 VP/business agent position at Local 6?  
4 A. No.  
5 Q. Prior to holding the VP/business agent  
6 position at Local 6, where did you work?  
7 A. The Plaza Hotel.  
8 Q. In what capacity?  
9 A. I was a waiter.  
10 Q. When did you stop working at the Plaza  
11 Hotel?  
12 A. July 2002.  
13 Q. When did you start working at the  
14 Plaza Hotel?  
15 A. September 26, 1985.  
16 Q. And when you started working at the  
17 Plaza September 26, 1985, what position did  
18 you hold?  
19 A. Busboy.  
20 Q. After working as a busboy, did your  
21 title change at any point?  
22 A. Yes, 1991, I believe I was promoted to  
23 a waiter.  
24 Q. Did your position change from that  
25 point forward?

Page 7

1 CEDENO  
2 A. I don't understand.  
3 Q. After being promoted to waiter, did  
4 you continue to work as a waiter until the  
5 date that you stopped working at the Plaza  
6 Hotel?  
7 A. That's correct.  
8 Q. Now, do you know Carlos Rivera?  
9 A. Yes.  
10 Q. How do you know Carlos River?  
11 A. I worked with him at the Plaza Hotel.  
12 Q. When did you first meet Carlos, if you  
13 remember?  
14 A. I can't remember. I believe it was  
15 sometime between 1991 -- I'm not sure if I  
16 met him before I left in 1987.  
17 Q. Before you left?  
18 A. Yes, in 1997 I joined the Marine  
19 Corps, and I came back in 1991 under the  
20 Native Soldier Act of 1942.  
21 Q. Okay, you might have met him either in  
22 the late 80's or early 90's?  
23 A. Yes.  
24 Q. Can you describe the relationship that  
25 you had with Mr. Rivera during the time that

Page 8

1 CEDENO  
2 you met at the Plaza Hotel?  
3 A. Mr. Rivera, when I came back in 1991,  
4 worked as a barback, and, also, would fill in  
5 as a bartender in the Oak Room, which is the  
6 work that I worked in. I worked in the Oak  
7 Room some time, I believe, between 1994 and  
8 1996. Mr. Rivera was a steady bartender in  
9 the Oak Room bar.  
10 Q. And how would you describe the  
11 relationship that you had with Mr. Rivera  
12 during the time that you worked at the Plaza  
13 Hotel.  
14 A. Strictly work. Just coworkers.  
15 Q. The Plaza closed for renovations in  
16 2005; is that right?  
17 MR. MCLANE: Objection to form.  
18 You can answer.  
19 A. I'm not sure. I can't remember  
20 exactly for sure. I believe it was in '85, I  
21 mean 2005, I'm sorry.  
22 Q. Just to be clear, what happened in  
23 2005?  
24 A. I believe the Plaza Hotel had closed  
25 for renovations.

Page 9

CEDENO

1  
2 Q. Was the union involved in any  
3 negotiations with the Plaza Hotel in 2005 in  
4 connection with the Plaza closing for  
5 renovation?  
6 A. Yes.  
7 Q. Can you describe the type of  
8 negotiations that the union was involved in?  
9 A. I was not directly involved, but it  
10 had to do with the workers that were there  
11 and what would happen to them and the hotel  
12 as a whole when they reopened.  
13 Q. What is your knowledge based on what  
14 the subject of the bargaining was?  
15 A. I don't understand your question.  
16 Q. You just stated that there were some  
17 decisions regarding the workers and what  
18 would happen to them as a whole in 2005,  
19 correct?  
20 A. That's correct.  
21 Q. And where did you get this  
22 information?  
23 A. From our meetings, our staff meetings  
24 that are held at the union.  
25 Q. What was your involvement with the

Page 10

CEDENO

1  
2 staff meeting that was held at the union  
3 relating to what would happen to those Plaza  
4 workers as a whole after 2005?  
5 A. There was a series of stuff. There  
6 was a whole campaign that we ran, because the  
7 hotel, at the time the owner wanted to close  
8 it and convert it into a condominium. We  
9 tried to stop that and reserve as many as  
10 jobs as we could. In order to do that,  
11 everybody had a different role to play as far  
12 as different events that occurred at that  
13 time and mobilizing events for that.  
14 Q. What was your role?  
15 A. I was one of the business agents, I  
16 had to make sure whatever events occurred  
17 that members of my local was informed, and,  
18 also, participate in those events.  
19 Q. What was your understanding as to what  
20 was supposed to happen to the Plaza workers  
21 after the hotel closed in 2005?  
22 A. That their jobs were still there  
23 meaning that a classification which will  
24 still exist needed to be recalled by  
25 seniority back to their jobs.

Page 11

CEDENO

1  
2 Q. What do you mean when you say  
3 classifications?  
4 A. There are different classifications,  
5 classifications are your job titles;  
6 bartender, server, room attendant, minibar  
7 attendant, doorman, bellmen et cetera.  
8 Q. I'm going to show you this document  
9 that I have marked for identification as P1,  
10 that I'll have marked as Cedeno 1.  
11 (Whereupon, the aforementioned Case  
12 Produce was marked as Cedeno 1, as of this  
13 date by the reporter.)  
14 Q. I'm going to ask you to review the  
15 document that I have just given you marked as  
16 Cedeno 1. When you're finished reviewing it,  
17 just let me know. Do you recognize the  
18 document that I have just given you?  
19 A. Yes.  
20 Q. What do you recognize this document to  
21 be?  
22 A. This is a document that I produce.  
23 It's called a Case Produce. It's when I open  
24 up a case. It's a form of document that I do  
25 to open a case.

Page 12

CEDENO

1  
2 Q. And what case did this involve?  
3 A. Mr. Rivera's case as far as the hotel  
4 violating his seniority to be recalled to be  
5 placed back as a bartender.  
6 Q. When you say, "As far as the hotel  
7 violating his seniority," what do you mean by  
8 that?  
9 A. The bartenders were called by their  
10 classification seniority. Being that there  
11 are, when the hotel opened up it was two more  
12 bars that was open, the Rose Bar and the  
13 Champagne Bar, by seniority the bartenders  
14 have the right to choose which bar they work  
15 in. The hotel violated that with Mr. Rivera.  
16 They did not allow him to choose, Mr. Lai,  
17 first name is Rajan.  
18 Q. Do you know what section of the union  
19 contract was violated?  
20 A. Not offhand, I can't quote the  
21 section.  
22 Q. I'm going to show you this document  
23 that I would like to have marked for  
24 identification as Cedeno Number 2.  
25 (Whereupon, the aforementioned

Page 13

1 CEDENO  
 2 Industrywide Collective Bartending Agreement  
 3 was marked Cedeno 2, as of this date by the  
 4 reporter.)  
 5 Q. Do you recognize the document that I  
 6 have just given you? This has been marked  
 7 for identification as Cedeno 2.  
 8 A. Yes.  
 9 Q. What do you recognize that document to  
 10 be?  
 11 A. That's our Industrywide Collective  
 12 Bartending Agreement.  
 13 Q. Is this the contract that was violated  
 14 with respect to Mr. Rivera, if you know?  
 15 A. I have to look at this first.  
 16 Q. Take a look at it. In particular, I'd  
 17 like you to look at Page 7.  
 18 MR. SALTZMAN: Let him know  
 19 when you're ready.  
 20 A. I'm ready.  
 21 Q. Do you know, is this the contract that  
 22 was violated with respect to Mr. Rivera's  
 23 seniority rights?  
 24 A. This is not it.  
 25 Q. Do you know which one it is?

Page 14

1 CEDENO  
 2 A. I do not believe you are going to find  
 3 it in any other written agreement. We are  
 4 talking about an issue of practice in the  
 5 department.  
 6 Q. Can you please elaborate.  
 7 A. Sure. Besides the contract, in every  
 8 hotel, in every department there is  
 9 established practice that they have there.  
 10 For example, you won't see it mentioned here,  
 11 there's shift seniority. Shift seniority is  
 12 if I work in the a.m. and you work in the  
 13 p.m., and we might have a practice where we  
 14 get laid off by shift seniority versus the  
 15 contract for department seniority, that is  
 16 not into the contract, because with respect  
 17 to hired in that classification, I could be  
 18 less used as a bartender.  
 19 For instance, in the a.m. shift and  
 20 the p.m. shift, you could have more years of  
 21 service as a bartender in the hotel, but  
 22 there is a layoff and it only involves the  
 23 p.m., you would be laid off and I will  
 24 continue in my shift.  
 25 Q. Let's talk about the practice as

Page 15

1 CEDENO  
 2 related to Carlos River's grievance, if at  
 3 all?  
 4 A. It's related, because the bartenders  
 5 in the Plaza Hotel worked under one  
 6 seniority, and depending on where you were in  
 7 the seniority dictated where you could choose  
 8 to go to work whether it's the Oyster Bar,  
 9 Palm Court or the Oak Room bar, so his  
 10 seniority gave him the right to, if they are  
 11 available, if he is in line in seniority for  
 12 them.  
 13 Q. How many classifications were there in  
 14 2008 at the Plaza Hotel for bartenders?  
 15 A. Just one.  
 16 Q. So there was no service bartender  
 17 title at that time?  
 18 A. No, that was something the hotel  
 19 argued. Because if you looked at the  
 20 agreement that was done with hotel, the hotel  
 21 chose just for pay services. All bartenders  
 22 would be paid at the bartender service rate  
 23 of pay, which is a higher rate of pay.  
 24 Q. What do you mean?  
 25 A. When they negotiated the contract for

Page 16

1 CEDENO  
 2 the Plaza's reopening, there were certain pay  
 3 rates that were negotiated, depending on what  
 4 the hotel wanted to do, how it wanted to  
 5 operate. So one of the agreements that was  
 6 reached, was as any bartender would be  
 7 recalled back would be paid at the service  
 8 bartender rate of pay.  
 9 Q. This was a higher rate?  
 10 A. That's correct.  
 11 Q. You said that the hotel tried to  
 12 argue, something like that?  
 13 A. Mr. Lai, Mr. Rajan Lai, at the time.  
 14 Q. When did you bring the grievance up to  
 15 him?  
 16 A. It was sometime in March of 2008. I  
 17 can't remember the exact date.  
 18 Q. What did Mr. Lai argue?  
 19 A. That Mr. Rivera, along with  
 20 Mr. Tejada, Mr. Ebelio Tejada were service  
 21 bartenders.  
 22 Q. He argued they were service bartenders  
 23 at the Plaza in 2008?  
 24 A. That's correct. No, I'm sorry it's  
 25 not correct. He argued that that was their

Page 17

1 CEDENO  
 2 title, and because of such, that's why he  
 3 placed them in the Palm Court, that they did  
 4 that alone, that they weren't qualified.  
 5 Q. He argued that that was their title in  
 6 2005?  
 7 A. That's correct.  
 8 Q. How many bartender classifications did  
 9 the Plaza Hotel have in 2005 for bartending  
 10 positions?  
 11 A. I don't know offhand, I would have to  
 12 look at the document, the recall list to be  
 13 able to see that.  
 14 Q. And as far as you know, Mr. Rivera was  
 15 a service bartender at the Plaza in 2005?  
 16 A. No.  
 17 Q. What position did he hold?  
 18 A. He was a bartender.  
 19 Q. Do you know where he worked?  
 20 A. In the Oak Bar.  
 21 Q. I want to return to Cedeno Number 1.  
 22 I want to draw your attention to that in the  
 23 middle of the page. It says contact, can you  
 24 please refer to what that refers to.  
 25 A. That is the first contact that I had

Page 18

1 CEDENO  
 2 with the member. So 3/13 at 9:30 Mr. Rivera  
 3 came to my office according to this document.  
 4 Q. Turn to the next page. Can you please  
 5 tell us what the meeting report section  
 6 discusses?  
 7 A. That is my conversation with  
 8 Mr. Rivera, and he was accompanied by  
 9 Mr. Ebelio Tejada, he was the other bartender  
 10 also in the grievance.  
 11 Q. Can you just read the handwritten  
 12 section on the top. I can't read that very  
 13 well, starting with --  
 14 A. Sure. Where it says Joseph Jimenez?  
 15 Q. Yes, start there.  
 16 A. "Barback is being told he is a runner,  
 17 but he is a barback."  
 18 Q. How about the one just under that?  
 19 A. "Palm Court bartender is being made to  
 20 set up glasses for servers and make  
 21 (inaudible) for servers, now the servers have  
 22 to," and I guess I didn't finish.  
 23 Q. Turn to the next page. Can you tell  
 24 us what those notes represent?  
 25 A. They're not mine, so I don't know.

Page 19

1 CEDENO  
 2 Q. Is that part of this document?  
 3 A. No, that was added on.  
 4 Q. It was added on. All right, so let's  
 5 talk about that first meeting that you had  
 6 with Mr. Lai in March of 2008. Can you tell  
 7 us how it came about?  
 8 MCLANE: I'm going to object to  
 9 the form.  
 10 Q. You can answer.  
 11 A. That meeting comes about from the  
 12 grievance, Mr. Rivera coming to me with  
 13 Mr. Tejada, so I have to follow up with a  
 14 meeting at the hotel when that occurs.  
 15 Q. Did you schedule a meeting?  
 16 A. Yes.  
 17 Q. Tell us what was discussed?  
 18 A. Why Mr. Rivera and Mr. Tejada were  
 19 placed in the back of the Palm Court in the  
 20 service bar and not allowed to work in the  
 21 front bars.  
 22 Q. What exactly did you say to Mr. Lai?  
 23 A. Just that, "Why did you not allow them  
 24 to work in the front bars?"  
 25 Q. What did Mr. Lai say?

Page 20

1 CEDENO  
 2 A. He said to me, "Because they were  
 3 service bartenders and they were not  
 4 qualified to work in the front bars."  
 5 Q. What did you say in response?  
 6 A. How did he come to that assumption  
 7 that they were not qualified, and that no one  
 8 was recalled back as a service bartender;  
 9 that was just an issue of pay.  
 10 Q. What did he say?  
 11 A. He said he just felt they were not  
 12 qualified and that's why he placed them  
 13 there.  
 14 Q. Did he give any reasons as to why he  
 15 believed that Mr. Rivera was not qualified?  
 16 A. He gave a reason, but I don't know if  
 17 it was particular to Mr. Rivera or  
 18 Mr. Tejada, and he mentioned something about  
 19 he spoke to one of the managers that was  
 20 there prior to the closing of the hotel.  
 21 Q. Okay.  
 22 A. That was the reason he gave.  
 23 Q. So his basis for believing that  
 24 Mr. Rivera was not qualified was a  
 25 conversation that he had with somebody else?



Page 21

1 CEDENO  
 2 A. That's correct.  
 3 Q. And he left it at that?  
 4 A. Yes.  
 5 Q. What did you do in response to  
 6 Mr. Lai's position?  
 7 A. What did I do?  
 8 Q. Yes.  
 9 A. I argued back that that's not what  
 10 they did. I have personally worked with  
 11 Mr. Rivera, and he was a bartender in the  
 12 front bar, that I also witnessed Mr. Tejada  
 13 occasionally working as a bartender while I  
 14 was there.  
 15 I also argued, that under the  
 16 agreement that the union reached with the  
 17 hotel, that they were supposed to be trained  
 18 and then evaluated, and then if there was any  
 19 dispute that that should have been brought up  
 20 with us and that had not been done.  
 21 Q. So he determined that Mr. Rivera was  
 22 not qualified prior to the training?  
 23 A. That's correct.  
 24 Q. And he determined that Mr. Rivera was  
 25 not qualified prior to Mr. Rivera being

Page 22

1 CEDENO  
 2 evaluated after training?  
 3 A. That's correct. To my knowledge, he  
 4 didn't use anything in his training to make a  
 5 decision on either Mr. Rivera or Mr. Tejada.  
 6 Q. Just to be clear, there were training  
 7 materials; is that what you're saying?  
 8 A. They were trained by the hotel, so  
 9 they went through formal training. If I'm  
 10 not wrong, I believe they went through a week  
 11 or two weeks' worth of training just for  
 12 their positions.  
 13 Q. And do you know who ended up getting  
 14 the front bar positions on or around  
 15 March 2008?  
 16 A. There was a gentleman by the name of  
 17 Leon Flanagan, who was a recalled bartender.  
 18 He did get one of them, and then all the  
 19 other positions filled were all new hires.  
 20 Q. Did you meet any of the new hires?  
 21 A. I don't understand.  
 22 Q. On or around March of 2008, did you  
 23 have occasion to meet with any of the front  
 24 bartenders that were new employees?  
 25 A. Yes.

Page 23

1 CEDENO  
 2 Q. Who?  
 3 A. I can't recall the names, I'm sorry.  
 4 Q. About how many?  
 5 A. I would say about between three and  
 6 five of them.  
 7 Q. If you can, spell out what was the  
 8 average age, if you had to estimates, of each  
 9 of these new workers?  
 10 A. Mid 20's, maybe early 30's at the  
 11 oldest.  
 12 Q. Did you ever come to learn whether or  
 13 not they had any experience as bartenders?  
 14 A. No, I never went into that detail.  
 15 Q. Did you ever have to represent any of  
 16 these individuals in any work-related  
 17 matters?  
 18 A. The new employees?  
 19 Q. Yes, sir.  
 20 A. Not that I recall.  
 21 Q. Do you know who Robert Kenyan  
 22 (phonetic) is?  
 23 A. The name rings a bell.  
 24 Q. I'm going to back up a little. I'm  
 25 going to ask you about your union. How big

Page 24

1 CEDENO  
 2 is your union, Local 6?  
 3 A. We have grown the last few years. We  
 4 were 25,000. I would say we're way above  
 5 that now close to 30,000, if not more.  
 6 Q. How many people do you represent in  
 7 the capacity as a business agent?  
 8 A. Me, myself?  
 9 Q. Yes, sir.  
 10 A. Between three to five thousand.  
 11 Q. How many grievances do you file a year  
 12 on average?  
 13 A. When you say "file," in what capacity?  
 14 Q. I guess, let's start with the  
 15 grievance process, what is the grievance  
 16 process as you know it?  
 17 A. In what aspect?  
 18 Q. Your involvement.  
 19 A. But as far as what comes to me  
 20 directly?  
 21 Q. Let's say a grievance comes to you  
 22 directly.  
 23 A. Members will either approach me by way  
 24 of making an appointment to come to my  
 25 office, or interactions with me in the hotel.